

ADDITIONAL APPENDIX

T O

The CASE of ELIZABETH,

(Claiming the Title and Dignity of)

COUNTESS of SUTHERLAND.

PROOFS referred to in the CASE.

N U M B. IX.

DECREET of Ranking of the NOBILITY in 1606.

AT *Edinburgh* the fift Day of *March*, the Yeer of God 1606 Yeers, anent our Sovereign Lords Lres. direct, mak and mentioun, Forsamickill as His Majestie and Lords of his Secreit Counsell considering and remembering the great Contentioun and Differences whilke manie Tymes occurred and fell out among the Nobilitie of this Kingdome of *Scotland*, anent their Precedence and Prioritie in Ranking and Voting in Parliaments and General Counsels, And how that this their Contentioun lay ever over unremembered or agitat bot at the verie instant of their meetings at his Majesties Parliaments and Conventions, at whilk Tyme thair was greater Mater of Impeschment offered to the Estaitte to compone their Differences than intreate upon the principal subject for whilk they wer assembled; His Majestie and the saids Lords thairfor being carefull to have this Contention removed, and the Contraverseis and Eyllis whilks arise among the Nobilitie for that Caus satled and pacified, whairthrow the Nobilitie and Estaits being freed and relieved of suche Mater of Contentioun, they may live in Peace, Love and Amitie evermore togidder, and deliberat upon such Maters as fall be intreated and motiouned in Parliaments thereafter; His Majestie for that Effect hes given his Heinesse Comission under the Great Seale, to a Number of his Hienesse Nobilitie and Cunsell, who are most indifferent and na ways suspect of Partialitie, to conveene and call before thame the hail Noblemen of this Kingdome of *Scotland*, and according to their Productions and Verificatioun of their Antiquities, to set down everie Man's Rank and Place; as in the Comission foresaid, past under the Great Seal at length is conteaned. And anent the Charge given to *Ludovick Duke of Lennox*, *Jobne Marqueis of Hamiltoun*, *George Marqueis of Huntlie*, *Patrick Erle of Orkney*, *George Erle of Caithnes*, *Alexander Erle of Sutherland*, *James Erle of Murrey*, *Francis Erle of Errol*, *George Erle Mairshall*, *David Erle of Crawford*, *James Erle of Atholl*, *John Erle of Montrois*, *James Erle of Perth*, *Erle of Monteith*, *Andrew Erle of Rothesse*, *Alexander Erle of Dumfermline*, *Archibald Erle of Argyll*, *James Erle of Glencarne*, *John Erle of Cassils*, *Erle of Eglintoun*, *William Erle of Angus*, *William Erle of Mortun*, *John Erle of Marr*, *Alexander Erle of Linlithgow*, *Countess of Buchane*, *Erle of Wynthoun*, *Alexander Erle of Home*, *Simoun Lord Fraser of Lovat*, *Edward Lord Bruce of Kinlosse*, *John Lord Forbes*, *Patrick Lord Glamis*, *James Lord Ogilvie*, *Alexander Lord of Spynie*, *Patrick Lord Gray*, *Lawrence Lord Oliphant*, *John Lord Murrey of Tullibardine*, *David Lord Skoone*, *James Lord Lindsay*, *Lord Sinclair*, *James Lord of Balmarinoch*, *Patrick Lord Lindores*, *James Lord Colville of Culros*, *John Lord Fleeming*, *Alexander Lord Elphinstoun*, *Andrew Lord Stewart of Ochiltree*, *Thomas Lord Boyd*, *Allane Lord Cathcart*, *Hew Lord of Lewdon*, *Robert Lord Sempill*, *Claud Lord of Paislay*, *James Lord Abercorne*, *John Lord Maxwell*, *John Lord Hereis*, *Robert Lord Crigtoun of Sanquhair*, *Lord Rosse*, *James Lord Cairleill*, *Robert Lord Roxburgh*, *James Lord Hay of Yester*, *Marke Lord of Newbottle*, *James Lord Torphick*, *James Lord Borthwick*, *John Lord Thirlestane*, *Thomas Lord Dirletoun*, and *Lord Saltoun*: And the Tutors and Curators of the saids Dukes, Marquiss's, Erles, and Lords, if they anie have, to have compeered before the saids Lords at a certaine Day bygane, and to have brought and produced with thame such Writts, Evidents, Documents, and Testimonies as they have or can use, for acclaiming of that Ranke and Place of Precedence and Prioritie challanged be thame before others, to have beene seene and considerit be the saids Lords Comissioners, and to have heard and seene their Rankes and Places of Prioritie and Precedences appointit and sett down to thame according to the Antiquitie of thair Productions, and that whilk sould be verified in their Presence, and they and everie ane of thame decerned to take that Place whilk sould be appointit and prescribit to thame by the saids Lords Comissioners as said is; certefying all suche Persons as sould not compeir be themselves or their Procuratours in their Names, that the saids Lords Comissioners would go forward in setting down everie Man's Ranke according to that whilk sould be verified as said is, and sould proceed according to the special Instructions given be his Majestie to the saids Lords Comissioners for this Purpose: And that the Determination of the saids Lords Comissioners sould stand in full Force and Effect ay and whill ane Decreit befoire the ordinar Judge, be recovered in the Contrair, likeas at mair Lenth is conteanit in the saids Lres, Executions, and Indorsatiouns thairof, quhilks being callit and diverse Terms and Dyets being keeped to this Effect: And the said *John Erle of Montrois*, *Alexander Erle of Dumfermline*, *Francis Erle of Errol*, *George Erle Mairshall*, and *Alexander Erle of Linlithgow*, compeerand personallie, and the saids *Alexander Erle of Sutherland* compeerand be *Mr. Robert Learmonth*,

Learmonth, his Procuratour, the said *John Erle of Mar* compeerand be *Mr. Thomas Hoip* his Procuratour, the said *David Erle of Crawfurd* compeerand by *Lawrence Scot* his Procuratour, the said *Andrew Erle of Rothesse* compeerand by *Mr. David Aystoun* his Procuratour, the said *William Erle of Mortun* compeerand by the said *Mr. Robert Learmonth* his Procuratour; the said *Erle of Monteith* compeerand, be *Grabame* his Procuratour; the said *Hew Erle of Englintoun* compeerand, be *Jobne Bell* his Procuratour; the said *Jobne Erle of Cassills* compeerand, be *Robert Hammultoun* and *Gilbert Rosse*; and the saids *Andrew Lord Stewart of Ochiltrie*, *James Lord of Balmarinock*, and *James Lord Abercorne* compeerand personallie; the said *James Lord Lindsey* of the *Byres* compeerand, be the said *Mr. Robert Learmonth* his Procurator; the said *John Lord Forbes* compeerand, be *John Fogo* his Procurator; the said *Patrick Lord Glamis* compeerand, be *Mr. Jobne Shairp*, younger, his Procuratour; the said *Patrik Lord Gray* compeerand, be *Patrik Zubytball* of *Newgrange* his Procuratour; the said *John Lord Saltoun* compeerand, be *Mr. William Livingstoun* his Procuratour; the said *Allane Lord Cathcart* compeerand, be *George Angus* his Procuratour; the said *James Lord Cairleille* compeerand, be the said *Robert Hammultoun* his Procuratour; the said *Robert Lord Sanquhair* compeerand, be *Crichtoun of Lugtoun*, his Procuratour; the said *James Lord Hay of Yester* compeerand, be *Mr. George Butler*, his Procuratour; the said *Robert Lord Sempill* compeerand, be the said *John Bell*, his Procuratour; the said *John Lord Hereis* compeerand, be *Cutbber Cuningbeime*, his Procuratour; the said *Alexander Lord Elphinstoun* compeerand, be the said *James Fogo*, his Procuratour; the said *James Lord Torphichen* compeerand, be the said *Mr. Robert Learmonth*, his Procuratour; the said *John Lord Thirlestane* compeerand, be *Thomas Fleming*, his Procuratour; the said *Alexander Lord of Spynie* compeerand, be the said *Mr. Robert Learmonth*, his Procuratour; and the haill remanent Erles and Lords particularlie abovewritten, being oftymes callit and not compeerand, and diverse Termes and Dyets, being assignid unto thame for this Effect. The Writs, Evidents, Testimonies and Documents produced be the said Persons compeerand, whairby thay, and every ane of thame, acclaimed thair Prioritie and Precedencie before others, being diverse Tymes, and at diverse Dyets, verie diligentlie and exactlie sichted, tryed, and examinat and considerit be the saids Lords Commissioners; and the saids Lords being thairwith as allwa with the Rankes and Places of such Erles and Lords as were promoted and created in His Majesty's awin Tyme weill and throughlie advised, the saids Lords Commissioners has decernit, decreittit, appointit and sett down, and be thir Presents, Decerins, Decreits, appoints and setts down the Rankes and Plaices following, to the haill Noblemen of this Kingdome, to be bruiked, kepted and posselt be thame in all Parliaments, General Counsells, and Publick Meetings hereafter. In the first, the saids Lords Commissioners decerins and ordains the Duke of *Lennox* to have the first Plaice, the Marquis of *Hammultoun* the second Plaice, and the Marquis of *Huntlie* the third Plaice, becaus be the Custome inviolable observed in all Kingdoms the Plaice of Honor and Dignitie among Nobilitie is first in the Persons of Dukes, Marquess's, and than in the Persons of Erles and Lords; and nixt but thame the saids Lords Commissioners decerins and ordains the Erles abovewritten to have, bruick, and possesse thair Rankes and Plaices according as thay are heere writtin, rankit, and sett down, in ordour following, viz. *Angus, Argyle, Crawfurd, Errol Mairshall, Sutherland, Mar, Rothesse, Mortun, Monteith, Englintoun, Montrois, Cassills, Cathnes, Glencairne, Buchane, Murrey, Orkney, Athol, Wyntoun Linlithgow, Home, Perth, Dumfermline, and Dunbar*. And further, the saids Lords Commissioners decerins and ordains the Lords particularlie above writtin, to have, bruik and possesse thair Rankes and Plaices according as thay ar heir writtin, rankit, and sett down, in ordour following viz. *Lindsey, Forbes, Glamis, Fleming, Saltoun, Gray, Ochiltrie, Cathcart, Carlile, Sanquhair, Yester, Sempill, Sinclair, Heries, Elphinstoun, Maxwell, Oliphant, Lovatt, Ogilvie, Borthwick, Rosse, Boyd, Torphichen, Paisley, Newbottle, Thirlestane, Spynie, Roxburgh, Lundorfe, Lowdown, Dirltoun, Kinlosse, Abercorne, Balmerinock, Murrey of Tullibardin, Colville of Culross and Skoone*. And decerins and ordains all the Erles and Lords particularlie above writtin, to keepe, bruik, and possesse thair Rankes and Places in Tyme couming, according to the Ordour and Rankes abovewritten, now appointit, prescrivit and sett down unto thame. And to make no Questiou, Trouble nor Plea in this Matter to aine appointed to have Plaice and Ranke before thame in Manner foresaid; but Prejudice alwayes to such Persoun or Persouns as fall find thameselffes interest and prejudged by thair present Ranking to have Recourse to the ordinar Remeid of Law be Reduction before the Lords of Counsell and Session of this present Decreit, for Recoverie of thair awin dew Plaice and Rankes, be Production of mair ancient and authentick Writts, nor has beene used in the Contrair of this Processe: Summoning thairto all such Persouns as they shall thinke wrangeuslie rankit and plaiced before thame. And in this meane Tyme this present Decreit and Determination to stand in full Force, Strength and Effect, ay and whill the Partie interest and prejudged obteane laughfullie ane Decreit before the said Lords of Counsell and Session, as said is; and ordains thir Presents to be insert and registrat in the Books of Privie Counsell and an authentick Extract heerof to be delyverit to the Clerk of Register, and another to be delyverit to the Lyoun Heralld, to be kepted be thame for thair better Knowledge and Information of everie Mans Rankes and Plaices, when the Occasioun of their Ranking fall be presented. "Extractum ex libris secreti consilii S D N Regis, per me Magistrum Gilbertum Prymrois clericum ejusdem, sub meis signo et subscriptione manualibus."

(Signed) M. G. PRYMEROSE.

PROCLAMATION in 1617, Ratifying the foresaid Decreet of Ranking.

Apud Edinburgh 12th Junii, 1617.

FORSAMEIKLEAS for eshewing of Trouble and Contestation whilk ordinarily fell out amongs the Noblemen of this Kingdom in the Time of Parliaments and Generall Counsells anent their ranking and voting, the King's Majestie gaif ane Commissione to certain of the Nobility and others of the Counsell, to set down the Rankis of the haill Noblemen according to the Verification of their Antiquities, quhilks Commissionaris, after lang Paines and Travells tane be them in the Matter, gaif furth their Decreet and Sentence, quhairby they sett down the Ranks of the haill Noblemen of this Kingdom, according to the Verification and Production of their Antiquities: And whereas, the Soverane and High Court of Parliament of this Kingdom is to be holden at the Burgh of *Edinburgh*, and to begin, God willing, upon *Tuesday* the 17th of *Junii* Instant, quhairat his Majesty, with diverse Persons of Rank and Quality of the Kingdom of *England* will be present. His Majesty doubts not,

not, but is assurit that all the Nobles who are to be present at this Parliament will haif a reverent and dutiful Regard to keep that Ordour and Modesty whilk becometh, and to content themselves with their Ranks and Places as they are sett down in the said Decreet; and whereas ony of them finds themselves greivt be their Ranking, that they will reserve their Greives to ane uther Time, and seek the Reparation thereof according to the Ordour prescrivit in the said Decreet: Thairfore, the said Lords of Secrete Councell ordains Officiaris of Armes to pass to the Mercate Croce of *Edinburgh*, and thair be opene Proclamation, to command and charge the haill Noblemen of this Kingdom who are to be present at this Parliament, That they and every one of them content themselves with their Ranks and Places, as they are set down in the said Decreet, and that they make no Trouble, Question, or Contestation at this Time anent their Places; and such as sen the Time of the said Decreet has been preferrit and advancit be his Majestie to Degrees and Ranks of Honor, that they take their Places and Ranks according to their Creations, and no otherways; certifying them that sal do in the contrair, that not only fall they incurr his Majesties heavy Wrath and Indignation, bot they sal be Repute haldin and stemit as Disturbers of the Peace of the Parliament, and sal be censurit thairfore accordingly; and seeing it has been oftymes commandit in sundry preceeding Parliaments, that the Commissioners for the small Barons and Burrows sould provide themselves with Horse and Futemantills to attend his Majestie to the Parliament House from his Palace; therefore, to command and charge the Commissioners for the small Barons and Burrows, that they address themselves in due and lawful Time to his Majesties Palace of *Holyroodhouse* upon *Tuesday* the 17th of this Instant, and attend his Majestie therefrae to the Parliament House upon Horseback and with Futemantills; certifying them that sal not be preparit with Horse and Futemantills as said is, that they fall be noted as Absents, and accordingly sal be unlawit, and they sal haif no Place nor Vote in this present Parliament, and sicklike to command and charge all and sundry Persons repairing to this present Parliament, that they observe his Majesties Peace ilk ane with others under the Paine of Dead.

Precept for Infeftment in Favour of the Earl of Caithness, 1st September 1516.

Elizabeth Comitissa de Sutherland et Domina hereditaria dicti Comitatus de Sutherland delectis meis Roberto Innes de Rothnalize et vestrum cuilibet conjunctum et divisim ballivis meis in hac parte irrevocabiler constitutis, salutem. Quia cum assensu nobilis et potentis Domini Ade Gordoun Comiti Sutherlandie sponse mei dedi et concessi hereditarie nobili et potenti Domino Johani Comiti Cathanie omnes et singulas terras meas de Helmesdail &c. cum suis pertinen jacen in Dominio et Comitatu meo de Sutherland infra Vicecomitatum de Innernes pro benemeritis gratuitis auxiliis et conciliis michi et sponso meo prefato per dictum Johannem Comitem Cathanie gratanter impensis et impendendis prout in carta mea sibi desuper confecta ulterius continetur. Vobis igitur et vestrum cuilibet conjunctim et divisim praecepto et mando ac firmiter do in mandato quatenus visis presentibus indilate dicto Johani Comiti Cathanie aut sua certo actornato latori presentum Saisnam hereditariam omnium et singularum dictarum terrarum de Helmesdail &c. cum suis pertinentiis tradatis et deliberetis aut unus vestrum tradat et deliberet secundum tenorem Carte meae indi sibi confecte. Ad quod faciendum vobis et vestres cuilibet conjunctim et divisim meam plenariam et irrevocabilem tenore presentium cum consensu et assensu dicti sponsi mei committo potestatem Datum sub sigillo meo proprio una cum sigillo prefate sponsi mei in testimonio sui consensu apud Spyne primo die mensis Septembris anno Domini millesimo quingentesimo decimo sexto coram his testibus honorabilibus et creditabilibus Jacobo Crighton de Fredrat Magister Roberto Innes de Rothnalize Valtero Innes de Tenthis Dominus Williellmo Nory Vicaro de Drumblait Andreo Smyth et Roberto Donalei presbiteris ac notariis publicis.

N U M B X:

CHARTER in Favour of William Sutherland of Duffus. 26 March 1525.

Omnibus hanc cartam visuris vel audituris Adam Gordon Comes de Sutherland et Elizat. sponsa mea Comitissa et Domina hereditaria ejusdem communi nostrum consensu et assensu salutem in Domino sempiternam. Noveritis nos motu proprio unanimo consensu et assensu zelo justicie ne terræ Dominio nostro subiecte in incertum percurrant seu incognitus et titulum non habent pertranseant jure successionis nobilis viri Williellmi Sutherland Domini de Duffous in subscriptis terris et Dominio de Pronsie cum pertinen per decessum quondam Hugonis Sutherland Domini olim de Pronsie sine liberis masculis ratione talie et infeodationis antike desuper concessæ attento et avisato ac considerato pro servitio ipsius Williellmi Sutherland nobis per se et suos prestito et prestando facto et faciendo dedisse concessisse et hac presenti carta nostra confirmasse tenoreque presentium dare concedere et hac presenti carta nostra confirmare dicto Williellmo Sutherland heredibus suis et assignatis totas et integras terras ac Dominum de Pronsie, viz. terras duarum villarum de Turbois, &c. cum universis et singulis dictarum terrarum annexis connexis pertinen et dependentiis solitis et consuetis sibi jure successionis ratione tallie per decessum dicti quondam Hugonis sine liberis masculis descendens ut prescribitur pertinen et incumben jacen in Dominio seu Comitatu nostro de Sutherland et infra Vicecomitatum de Inverness. Per omnes rectas meras suas antiquas et divisas prout jacent in longitudine, &c. Adeo libere quiete plenarie honorifice bene et in pace in omnibus et per omnia sicut aliqua terra de nobis et successoribus nostris dari poterit seu possideri suplando et supletis prout suplemus omnes et singulos defectus (si qui sint) in hujus modi tallie carta seu successionem desuper habita quos nos ratione domini et superioritatis suplere possumus dan conceden et ceden eidem Williellmo heredibus suis et assignatis omne jus clameum titulum proprietatem et possessionem in hujusmodi terris ratione superioritatis quovis modo pertinen. et incumben. Reservato nobis duntaxat earund. terrarum solita et consueta superioritate Wardaq; relevio et maritagio cum contigerint. Redden inde annuatim idem Williellmus hæredes sui et assignati nobis hæredibus nostris et assignatis servitium de hujusmodi terris solitum et consuetum Wardamq; relevium et heredis maritagium cum contigerint nec non in nostris causis et querelis existentia consilium et auxilium tantum pro omni alio onere servitio exactione seu demanda quæ de hujusmodi terris cum pertinen. exigi poterint quomodo libet vel requiri. Et nos vero predicti

predicti Adam et Elizabeth Comes et Comitissa de Sutherland heredes et successores nostri totas et integras terras et dominium de prout predictum cum pertinent dicto Wilhelmo Sutherland de Duffous heredibus suis et assignatis in omnibus et per omnia ut premissum est contra omnes mortales warrantizabimus acquietabimus et in perpetuum defendemus. In cujus rei testimonium sigilla nostra propria pnti. carte nostre sunt appensa apud Elgin vigesimo sexto die mensis Marcii anno domini millesimo quingentesimo vigesimo quinto coram his testibus venerabilibus et egregiis viris magistris Alexandro Dunbar Decano Moravien. Roberto Reid Subdecano Moravien. Roberto Innes de Inner Markye et Magistris Willielmo Gordon et Thoma Gaderar notariis cum diversis aliis.

*Adam Gordon with my hand at the pen led by maister Thomas Gaderar notary publick.
Elizabeth Sutherland Countas of Sutherland with my hand at the pen led by the foresaid maister Thomas, notary.*

N U M B. XI.

CHARTER Alexander Earl of Huntlie, to Adam Gordon and Elizabeth Sutherland, 19 November 1512.

Omnibus hanc cartam visuris vel auditoris Alexander Comes de Huntlie ac Dominus de Badenoch, eternam in Domino salutem; noveritis nos dedisse concessisse et hoc presenti carta mea confirmasse *dilectis nostris Adam Gordon fratri carissimo et Elizabethæ Sutherland sponse, et eorum dutius viventi et heredibus masculis inter ipsos procreatis seu procreandis; quibus forte deficientibus heredibus dicti Adami quibuscunque*, Totas et integras terras de Forat, &c. infra Vicecomitatum de Aberdeen. *Quequidem* terræ fuerunt per prius hereditarie dicti Adami, et quas idem non vi nec metu ductus nec errore lapsus sed sua mera et spontanea voluntate in manibus nostris tanquam Domini superioris earundem apud Glentaner personaliter per fustim et baculum sursum redidit pureque et simpliciter resignavit ac totum jus et clameum quod in dictis terris cum molendino habuit habet seu habere potuit pro perpetuo resignavit et renunciavit. *Tenendas et habendas* totas et integras terras prædictas cum molendino et pertinentiis dictis Adam et Elizabeth sponse sue et eorum dutius viventi in conjuncta infeodatione et heredibus masculis inter ipsos procreatis seu procreandis de nobis heredibus nostris et assignatis hereditarie in perpetuum per omnes rectas suas metas antiquas et devisas prout jacent in longitudine et latitudine, &c. *Faciendo* inde annuatim dicti Adami et Elizabeth sua sponsa et eorum dutius vivens ac heredes inter ipsos procreate seu procreandi quibus forte deficientibus heredes dicti Adami quicunque nobis heredibus nostris et assignatis servitium debitum et consuetum fien per suas antiquas infeodationes tantum pro omni alio onere seculari exactione seu demanda que de dictis terris exigi poterit seu requiri. *Et nos viro* dictus Alexander heredes nostri et assignati prædictas terras de Forat &c. prædictis Adam et Elizabeth sue sponse et eorum dutius viventi et heredibus masculis inter ipsos procreat sui procreand quibus deficientibus heredibus dicti Adami quibuscunque warrantizabimus ac quietabimus contra omnes mortales et defendemus *In cujus rei testimonium* sigillum nostrum huic presenti carte nostre apponi fecimus apud Glentaner decimo nono die mensis Novembris anno Domini millesimo quingentesimo duodecimo coram his testibus &c.

ADDITIONAL APPENDIX

T O

The CASE of ELIZABETH,

(Claiming the Title and Dignity of)

COUNTESS of SUTHERLAND.

